

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re Flint Water Cases,

No. 5:16-cv-10444-JEL-MKM

Hon. Judith E. Levy

Mag. Mona K. Majzoub

**RESPONDENTS' MOTION TO SEAL EXHIBITS A, B, C, and E TO THE
DECLARATION OF MARK CUKER IN SUPPORT OF RESPONDENTS
OPPOSITION TO MOTION TO DISBURSE FEES AND CROSS MOTION
TO RELEASE FEES AND AN UNREDACTED OPPOSITION TO MOTION
TO DISBURSE FEES AND CROSS MOTION TO RELEASE FEES.**

Respondents Mark R. Cuker and Gerald Williams, move for leave pursuant to E.D. Mich. Local Rule 5.3(b) to file under seal Exhibits A, B, C, and E to the Declaration of Mark R. Cuker in Support of their Opposition to Motion to Disburse Fees and in Cross Motion to Release Fees and an Unredacted Opposition to Motion to Disburse fees and Cross Motion to Release Fees, with a redacted version of these papers to be publicly filed. The information Respondents seek to file under seal consists of documents designated as "Confidential" by the parties to the motion.

WHEREFORE, Respondents respectfully request that this Court grant their Motion to seal Exhibits A – C and E to the Declaration of Mark R. Cuker in Support of Respondents’ Opposition to Motion to Disburse Fees and Cross Motion to Release Fees and an Unredacted Opposition to Motion to Disburse fees and Cross Motion to Release Fees.

August 24, 2023

/s/ Mark R. Cuker
MARK R. CUKER

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BRIEF IN SUPPORT OF RESPONDENTS' MOTION TO SEAL

ISSUE PRESENTED

1. Should the Court permit Respondents to file under seal Exhibit A, B, C, and E to the Declaration of Mark R. Cuker in Support of Williams and Cuker's Opposition to Motion to Disburse Fees and in Support of Gerald Williams and Mark Cuker's Cross Motion to Release Fees and an Unredacted Motion in Opposition to Motion to Disburse fees and In Support of Gerald Williams and Mark Cuker's Cross Motion to Release Fees?

Respondents' Answer: Yes

CONTROLLING OR MOST APPROPRIATE AUTHORITY

Michigan Local Rule 5.3

INTRODUCTION

Respondents' Motion to Seal addresses material designated by the parties as confidential. Respondents seek to seal Exhibits A, B, C, and E to the Declaration of Mark R. Cuker in Support Williams and Cuker's Opposition to Motion to Disburse Fees and in Support of Gerald Williams and Mark Cuker's Cross Motion to Release Fees and an Unredacted Motion in Opposition to Motion to Disburse fees and In Support of Gerald Williams and Mark Cuker's Cross Motion to Release Fees, in accordance with the procedure set forth in the Confidentiality Order Paragraph 9, have provisionally filed the documents under seal to permit interested parties 14 days to file motions in support of sealing should they choose to do so.

BACKGROUND AND GOVERNING RULE

Eastern District of Michigan Local Rule 5.3 permits the Court to order that documents containing private or sensitive information may be filed under seal. The Confidentiality Order likewise permits Parties to file certain information provisionally under seal, and provides a procedure for doing so, so that interested parties may be afforded an opportunity to seek permanent sealing. Confidentiality Order (ECF No. 299) ¶¶ 9-10, Page ID 11457-11458.

Local Rule 5.3 requires the moving party to provide:

- (i) an index of documents which are proposed for sealing and, as to each document, whether any other party objects;
- (ii) a description of any non-party or third-party privacy interest that may be affected if the documents or portions thereof to be sealed were publicly disclosed on the court record;
- (iii) whether the proposed sealed material was designated as “confidential” under a protective order and by whom;
- (iv) for each proposed sealed exhibit or document, a detailed analysis, with supporting evidence and legal citations, demonstrating that the request to seal satisfies controlling legal authority;
- (v) a redacted version of the document(s) to be sealed, filed as an exhibit to the motion, unless the proponent of the filing is seeking file the entire document under seal, in which case a blank sheet shall be filed as an exhibit . . .; and
- (vi) an unredacted version, filed as a sealed exhibit, of the document that is sought to be file under seal . . .

E.D. Mich. L.R. 5.3(b)(3)(A).

Pursuant to this rule, Respondents identify Exhibits A, copy of the Dissolution Agreement (“DA”) of the parties, Exhibit B, *Dollar General* fee allocation letter from Allan Kanner Esq dated August 2, 2021 Exhibit C, email exchange from August 5 to August 11, 2021 between Carlo Scaramella (attorney for Berezofsky) and Walter Weir (attorney for Willaims and Cuker), and Ex. E, Excerpts of December 23, 2021 Transcript of conference in the parties’ arbitration, to the

Declaration of Mark Cuker in support of Williams and Cuker's Opposition to Motion to Disburse Fees and in Support of Gerald Williams and Mark Cuker's Cross Motion to Release Fees and an Unredacted Motion in Opposition to Motion to Disburse fees and In Support of Gerald Williams and Mark Cuker's Cross Motion to Release Fees.

I. The Court should allow provision sealing of materials designated by parties as "Confidential" under the Confidentiality Order to allow interested parties to seek permanent sealing within fourteen days.

Paragraph 9 of the Confidentiality Order states that if a party seeks to file material designated by another party as confidential, "the filing party shall initially file a redacted version omitting the Protected Material, and shall serve both the redacted and unredacted copy of the filing (hereinafter called "unredacted filing") on counsel of record for all parties and the Court." ECF No. 299, PageID.11457-11458. Once a party does so, "the producing party shall have fourteen (14) days to file a further motion to seal the Protected Material contained in the unredacted filing, identifying . . . the specific pages, lines, words, and content of such filing that such party contends meet the standard for sealing from public view under applicable law." *Id.* If no party moves to seal, "the original filing party shall re-file the complete, unredacted motion in the public record." *Id.* at PageID.11458.

In accordance with this procedure, Respondents have filed documents containing material designated by parties to this case “Confidential” under the Confidentiality Order in redacted form. In the event no party moves to seal the redacted material set forth above, Respondents will re-file the Williams and Cuker Opposition to Motion to Disburse Fees and In Support of Gerald Williams and Mark Cuker’s Cross Motion to Release Fees and Exhibits A – C and E of Declaration of Mark R. Cuker in Support.

Dated: August 24, 2023

/s/ Mark R. Cuker
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CERTIFICATE OF SERVICE

I hereby certify that this document has been served by electronic mail to all
counsel of record.

/s/ Mark R. Cuker
MARK R. CUKER